

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

PHILIP FORZAGLIA,

Plaintiff,

v.

No. 23-cv-273-WJ-KRS

THE BOARD OF COUNTY  
COMMISSIONERS OF THE COUNTY  
OF BERNALILLO, et al.,

Defendants.

**ORDER GRANTING IN FORMA PAUPERIS APPLICATION**

This matter is before the Court on Plaintiff Philip Forzaglia's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 6 at 24-28) (the "IFP Motion"). Plaintiff was incarcerated when he initiated this prisoner civil rights case. Although he appears to have been released from custody, the Prison Litigation Reform Act continues to apply. *See Carson v. Tulsa Police Dep't*, 266 F. App'x 763, 766 (10th Cir. 2008) (28 U.S.C. § 1915(b), applies "to a plaintiff . . . who was in prison at the time of filing notice of the appeal, but has since been released.").

Plaintiff's financial information reflects he is unable to prepay the \$402 filing fee for his prisoner civil rights complaint. The Court will therefore grant Plaintiff leave to *proceed in forma pauperis*, which reduces the fee to \$350, and allow Plaintiff to pay in installments. *See* 28 U.S.C. § 1915(b). Plaintiff must make an initial partial payment of "20 percent of the greater of ...[his] average monthly deposits ... or (B) the average monthly balance" for the six-month period immediately preceding this action. *Id.*

Plaintiff receives an average of \$61.33 per month, and his average monthly balance is \$23.02. (Doc. 6 at 26-28). The Court will assess an initial payment of \$12.27, which is 20% of the

greater figure (\$61.33), pursuant to § 1915(b)(1)(A). After payment of the initial partial fee, Plaintiff is “required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). If Plaintiff fails to timely make the initial partial payment, his complaint may be dismissed without further notice.

**IT IS THEREFORE HEREBY ORDERED** that:

- (1) The **IFP Motion (6 at 24-28)** is **GRANTED**.
- (2) Within thirty (30) days from entry of this order, Plaintiff shall send to the Clerk an initial partial payment of **\$12.27**.
- (3) The Clerk is directed to provide Plaintiff with two copies of this order, and Plaintiff shall make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment.
- (4) After payment of the initial partial fee, Plaintiff make monthly payments of twenty percent (20%) of the preceding month’s income credited to his account or show cause why the designated payments should be excused.

  
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UNITED STATES MAGISTRATE JUDGE